

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 165

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO CHILDREN; ENACTING THE CURFEW ENFORCEMENT ACT;
PROVIDING MUNICIPALITIES AND COUNTIES WITH AUTHORITY TO ENACT
CURFEW ORDINANCES; ENACTING NEW SECTIONS OF THE CHILDREN'S
CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Curfew Enforcement Act"."

Section 2. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] DEFINITION.--As used in the Curfew
Enforcement Act, "neglected child" means a child:

A. who has been abandoned by the child's parent,

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underscored material = new
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1 guardian or custodian;

2 B. who is without proper parental care and control
3 or subsistence, education, medical or other care or control
4 necessary for the child's well-being because of the faults or
5 habits of the child's parent, guardian or custodian or the
6 failure or refusal of the parent, guardian or custodian, when
7 able to do so, to provide them;

8 C. who has been physically or sexually abused, when
9 the child's parent, guardian or custodian knew or should have
10 known of the abuse and failed to take reasonable steps to
11 protect the child from further harm; or

12 D. whose parent, guardian or custodian is unable to
13 discharge his responsibilities to and for the child because of
14 incarceration, hospitalization or physical or mental disorder
15 or incapacity."

16 Section 3. A new section of the Children's Code is
17 enacted to read:

18 "[NEW MATERIAL] PURPOSE.--The purpose of the Curfew
19 Enforcement Act is to:

20 A. protect children from dangerous circumstances as
21 a result of being without proper supervision during the hours
22 between 12:00 a.m. and 5:00 a.m.; and

23 B. provide for the general protection of children
24 and the community."

25 Section 4. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] AUTHORITY TO ENACT CURFEW ORDINANCES.--A
3 municipality or county may enact a curfew ordinance if:

4 A. the curfew applies only to children less than
5 sixteen years of age;

6 B. the curfew applies only to the time period
7 between 12:00 a.m. and 5:00 a.m.; and

8 C. the municipality or county has established a
9 family education program that provides information about the
10 purposes of the curfew ordinance and the availability of
11 community services."

12 Section 5. A new section of the Children's Code is
13 enacted to read:

14 "[NEW MATERIAL] EXCEPTIONS.--A municipal or county curfew
15 ordinance shall include exceptions for:

16 A. activities authorized by a school, religious
17 organization or community organization;

18 B. verified employment, including a work-related
19 errand;

20 C. instances when a child's parent, legal guardian
21 or custodian has provided the child with permission to be out
22 between the hours of 12:00 a.m. and 5:00 a.m; and

23 D. an emergency."

24 Section 6. A new section of the Children's Code is
25 enacted to read:

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1 "[NEW MATERIAL] ENFORCEMENT.--

2 A. A municipal or county curfew ordinance shall
3 provide for enforcement of the ordinance in the following
4 manner. Upon a first violation, a law enforcement officer
5 shall issue a warning to the child. Upon a second violation, a
6 law enforcement officer shall issue a citation to the child.
7 The citation shall include a notice of the child's right to
8 appeal the citation to a hearing officer appointed by the
9 department. The citation shall also include a notice that,
10 unless the citation is appealed, the child and the child's
11 parents or legal guardians are required to attend a family
12 education program no later than thirty days after issuance of
13 the citation. Upon issuing a second citation, the law
14 enforcement officer shall contact the department's juvenile
15 justice call center and attempt to contact the child's parents
16 or legal guardians.

17 B. If the child and the child's parents or legal
18 guardians fail to attend a family education program and the
19 parents or legal guardians of the child received actual notice
20 of the requirement to attend the family education program, the
21 child shall be referred to the department for an assessment of
22 whether the child is a victim of abuse or a neglected child.

23 C. Upon a third or subsequent violation of a curfew
24 ordinance, the child shall be referred to the department for an
25 assessment of whether the child is a victim of abuse or a

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underscoring material = new
[bracketed material] = delete

1 neglected child."

2 Section 7. A new section of the Children's Code is
3 enacted to read:

4 "[NEW MATERIAL] DATA--RULES.--The department shall adopt
5 rules regarding collection of data from municipalities and
6 counties that enact a curfew ordinance. The department shall
7 provide the legislature with an annual report regarding data
8 collected from the municipalities and counties."

9 Section 8. DELAYED REPEAL.--The provisions of the Curfew
10 Enforcement Act are repealed effective July 1, 2007.

11 Section 9. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2004.

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